IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 22154 of 2007(K)

PETITIONER:

K.S. SKARIAH,
KODIYATH MOLEL HOUSE, VILLADOM, RAMAVARMAPURAM P.O
THRISSUR (RETD. HEADMASTER, GOVT.L.P.SCHOOL,
THRISSUR EAST SUB DIST.).

BY ADV. SRI.K.BALACHANDRAN (MANGALATH)
SRI.RAJESH NAIR

RESPONDENTS:

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1. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF GENERAL EDUCATION, GOVT. OF KERALA,
SECRETARIAT BUILDINGS, THIRUVANANTHAPURAM.

3. THE ASSISTANT EDUCATION OFFICER,
THRISSUR EAST, THRISSUR DISTRICT.

4. SECRETARY TO THE GOVERNMENT,
FINANCE DEPARTMENT, GOVT. OF KERALA,
THIRUVANANTHAPURAM.

5. THE ACCOUNTANT GENERAL,
OFFICE OF THE ACCOUNTANT GENERAL,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)No.22154 OF 2007

Dated this the 31st day of July, 2007

JUDGMENT

Petitioner is a retired headmaster. According to him, he had joined service on August 10, 1962 and retired on superannuation on March 31, 1991 while he was working as headmaster in the Government Lower Primary School, Thrissur sub district.

2. Ext.P1 order issued by the Government on October 13, 1992 shows that the petitioner was found eligible for Selection Grade on completion of 23 years of qualifying service after fixing his pay in the Senior Grade notionally. Petitioner now contends that Ext.P1 order was not implemented. In other words, case of the petitioner is that he was not granted the benefit of Selection Grade pursuant to Ext.P1. There is no explanation why he had not taken any steps for “implementation” of the same till date. Similarly Ext.P3 order dated October 26, 1983, shows that the Government had regularized the promotion of petitioner as headmaster from June 1, 1973 in relaxation of the rules as a special case. Petitioner contends that his promotion ought to

have been regularised with effect from 1968 itself. Strangely petitioner does not state any reason why he had not taken any steps in this regard though Ext.P3 was issued in the year 1973. As mentioned earlier, petitioner retired from service only in 1991.

3. Petitioner has now filed this writ petition after a lapse of more than 16 years of his retirement with a prayer for issuance of writ of mandamus or direction to the respondents to grant him arrears of salary in the pay scale fixed by the respondents as indicated in Exts.P1 and P3. There is a further prayer to issue a writ of certiorari to quash Ext.P4 by which petitioner was informed by the Assistant Educational Officer, Thirssur East, that the request made by him for refixation cannot be granted at this distance of time. Ext.P4 order was passed in December 2006.

4. Learned counsel submits that the petitioner is entitled to get his pay revised in the scale of headmaster with effect from August 1968 and consequently the entire arrears of salary attached to the above post has to be disbursed to him from the instant date. It is contended by him that the order passed by the department regularizing his promotion as headmaster with effect

from June 1, 1973 is incorrect. There is a further prayer in the writ petition to issue a direction to the respondents to permit the petitioner to surrender his leave for the period from 1968 till 1973 and to disburse the leave salary.

5. Learned Government Pleader has made available the relevant files relating to the service records of the petitioner. He submits that the petitioner is not entitled to get the entire issue re-opened after a lapse of more than 20 years. According to him the Government had passed appropriate orders in the matter way back in the year 1983 as could be seen from Ext.P3. At that time Government had passed the said order in relaxation of the then existing rules as a special case. It is pointed by the learned Government Pleader that pursuant to Exts.P1 and P3 orders, the benefits payable to the petitioner had been disbursed to him as could be seen from the counter affidavit. There is considerable force in the above contentions.

6. At this stage a request is made on behalf of the petitioner to issue a direction to respondent no.1 to take a decision on Ext.P5 representation. I am not persuaded to accept the above

plea either. However, learned counsel for the petitioner submits that the benefits which may accrue to the petitioner by way of revision of pension pursuant to Ext.P2 order of the Government dated October 1, 2006 may not be denied to him. I do not find any reason why the petitioner should have such an apprehension. He will get whatever he is entitled to get under Ext.P2.

Having regard to the entire facts and circumstances and having perused the relevant materials on record, I am not satisfied that this is a fit case in which the discretionary jurisdiction under Article 226 has to be invoked. There is no merit in the writ petition and accordingly it is dismissed.

A.K.BASHEER, JUDGE

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